Lead Committee: Transaction and Regulatory Committee
Level of Government Committee: Legislative Committee

12/15/2013

BONDS FOR TRUST FUNDS; DEDUCTIBLE

THE QUESTION

Should C.A.R. sponsor legislation to allow bonds for unlicensed employees who have access to trust funds to be written with a deductible amount up to five percent?

ACTION REQUIRED?

Optional.

POSSIBLE POSITIONS

1. Sponsor legislation to allow a bond with a deductible to satisfy the bonding requirement.
2. Support the ability to have a bond with a deductible, but not sponsor legislation.
3. Other.
4. Take no action.

DISCUSSION

Generally, only a broker or a licensee with written authorization reporting to the broker is allowed to have access to the trust fund. Special allowance is made in Regulation 2834 for a non-licensee to be a signatory on the account if the licensee has *"fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time."*

There has been concern expressed in the REALTOR® community that the BRE is imposing a "zero deductible" requirement for the employee bonds, with the result that the bonds are either difficult or

unaffordable. However, a nominal (up to five percent) deductible on the bond would make the required bond both more easily purchased and more easily available. Preliminary discussions with the BRE suggest that so long as a deductible amount does not exceed one to five percent and the employing broker "self-insured" the deductible by funds outside the control of the bonded employee, then the approach would be sufficient to survive regulatory scrutiny. However, the BRE may need statutory authorization in order to approve the deductible approach.

Should C.A.R. sponsor legislation to provide that an employee trust fund fidelity bond may be approved with a deductible as described?